IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 11530 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GSRTC - Petitioner(s)

Versus

H.R.RAO - Respondent(s)

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Appearance :

MR HARDIK C RAWAL for Petitioner(s) : 1,
RULE SERVED for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 08/12/2005

ORAL JUDGMENT

1. This petition is directed against the award passed dated 25.10.2002 passed by the Industrial Tribunal, Surat, in Reference (IT) No.19 of 1998 whereby the said

reference was allowed and the order of punishment passed by the petitioner Corporation was quashed and set aside and directed to pay all consequential and incidental benefits to the petitioner.

2. The short facts of the case are that the respondent workman was working as a Driver with the petitioner Corporation. When he was on Navasari-Ojal Machhiwad route, the bus went off the road and fell on the side and while taking it in reverse, there was an accident as a result of which a female passenger sustained serious injuries and died. An inquiry was instituted and ultimately a penalty of stoppage of seven increments with permanent effect was passed. The departmental appeals filed against the punishment by the petitioner came to be dismissed. He, therefore, raised a dispute which was referred to the Industrial Court, which passed the award as stated hereinabove.

3. Learned counsel for the petitioner submitted that in spite of clear evidence on record the Industrial Tribunal has committed an error in setting aside the penalty imposed by the petitioner. He submitted that looking to the negligence on the part of the respondent, the

Industrial Tribunal was not justified in passing the award.

4. As a result of the hearing and perusal of the record, it is found that the petitioner had placed on record the entire proceedings of the departmental inquiry, the penalty order, the default card, etc. In spite of all these papers, ignoring all these documents the Tribunal has proceed on the footing that the respondent workman had tried to avoid the accident and that there is no evidence on record to show that the accident has occurred because of the negligence of the respondent workman. The findings are arrived at on the ground that the reporter was not an eye witness to the accident. In any view of the matter looking to the fact that the respondent workman was negligent which caused the accident some penalty is required to be imposed. The negligence was proved in the departmental inquiry. Because of the negligence the petitioner Corporation had to suffer a loss to an extent of Rs.1,69,000/- and other expenses on the vehicle. Therefore, I am of the view that ends of justice would be met by imposing a penalty of three increments with future effect upon the respondent workman.

5. Accordingly, a penalty of three increments with future effect shall be imposed upon the respondent workman. The award of the Industrial Tribunal is modified accordingly. Rule is made absolute accordingly with no order as to costs.

[K.S. JHAVERI, J.]

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